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8 Attorney for Plaintiff

9
10 **UNITED STATES DISTRICT COURT**
11 **FOR THE EASTERN DISTRICT OF WASHINGTON**

12 **MARY STALEY,**) Case No. CV-08-5032-RHW
13)
14 Plaintiff,) **AMENDED COMPLAINT FOR**
15) **VIOLATION OF FEDERAL FAIR**
16 vs.) **DEBT COLLECTION PRACTICES**
17) **ACT AND INVASION OF**
18 **AFNI, INC.,**) **PRIVACY**
19)
20 Defendant.)
21)
22)

23 **I. NATURE OF ACTION**

24 1. This is an action for damages brought by an individual consumer for
25 Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §
26 1692, *et seq.* (hereinafter "FDCPA") and of the Revised Code of Washington,
27 Chapter 19.16, both of which prohibit debt collectors from engaging in abusive,
28 deceptive, and unfair practices. Plaintiff further alleges a claim for invasion of
privacy by intrusion, ancillary to Defendant's collection efforts.

AMENDED COMPLAINT FOR VIOLATIONS OF THE FAIR
DEBT COLLECTION PRACTICES ACT - 1

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1 **II. JURISDICTION**

2 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).

3 **III. PARTIES**

4
5 3. Plaintiff, Mary Staley, is a natural person residing in the State of
6 Washington, County of Franklin, and City of Pasco.

7
8 4. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. §
9 1692a(3), and a “debtor” as defined by RCW § 19.16.100(11).

10
11 5. At all relevant times herein, Defendant, AFNI, Inc. (“Defendant”) was a
12 limited liability company engaged, by use of the mails and telephone, in the
13 business of attempting to collect a “debt” from Plaintiff, as defined by 15 U.S.C.
14 §1692a(5).

15
16 6. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. §
17 1692a(6), and a “licensee,” as defined by RCW § 19.16.100(9).

18 **IV. FACTUAL ALLEGATIONS**

19
20 7. At various and multiple times prior to the filing of the instant complaint,
21 including within the one hundred twenty days preceding the filing of this
22 complaint, Defendant contacted Plaintiff in an attempt to collect an alleged
23 outstanding debt. Defendant’s conduct violated the FDCPA and RCW § 19.16 in
24 multiple ways, including but not limited to:
25
26
27

1 a) Failing to provide to Plaintiff the appropriate notices
 2 pursuant to 15 USC § 1692g in this initial communication with
 3 debtor or in writing within 5 days thereof (§
 4 1692g(a)(1)(2)(3)(4)(5));

5 b) Using false representations and deceptive means to attempt
 6 to collect a debt, including misrepresenting to Plaintiff that the
 7 only way to dispute a debt is through the online dispute process
 8 on Defendant's website (§ 1692e(10) & § 1692g(b)) ;

9 c) Falsely representing the character, amount or legal status of
 10 the debt, including stating that consumer owes a debt that she
 11 does not owe (§ 1692e(2)(A)) ;

12 d) Failing to cease and desist communications with Plaintiff
 13 after a written request to do so, sent to Defendant by email (§
 14 1692c(c)); *See Exhibits A and B, attached hereto.*

15 **COUNT I: VIOLATION OF FAIR DEBT**
COLLECTION PRACTICES ACT

16 10. Plaintiff reincorporates by reference all of the preceding paragraphs.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff respectfully prays that judgment be entered
 19 against the Defendant for the following:
 20

- 21
- 22 A. Declaratory judgment that Defendant's conduct
 - 23 violated the FDCPA;
 - 24 B. Actual damages;
 - 25 C. Statutory damages;
 - 26 D. Costs and reasonable attorney's fees; and,
 - 27 E. For such other and further relief as may be just and proper.

**COUNT II: VIOLATION OF WASHINGTON COLLECTION AGENCY
ACT, WHICH IS A PER SE VIOLATION OF THE WASHINGTON
CONSUMER PROTECTION ACT**

11. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered
against the Defendant for the following:

- A. Actual damages;
- B. Discretionary Treble Damages;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

Respectfully submitted this 2nd day of July, 2008.

s/Jon N. Robbins
Jon N. Robbins
WEISBERG & MEYERS, LLC
Attorney for Plaintiff

EXHIBIT

“A”

AMENDED COMPLAINT FOR VIOLATIONS OF THE FAIR
DEBT COLLECTION PRACTICES ACT - 5

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From: mary staley [marydsquires@hotmail.com]
Sent: Tuesday, January 15, 2008 12:07 AM
To: recoveryteam@afninet.com
Subject: Collections Account

Hello,

I am writing in regards to a collection account that shows up on my credit report under Verizon ref # 2012931822. I am unable to submit a dispute via the website because I have not received any notice of collection from your agency. I believe this is in regard to a previously disputed claim from Verizon, which must have been sent to a new collection agency after there was no evidence of fair debt owed on my behalf.

I am both 1) disputing this claim and 2) requesting that you cease your attempts to collect this debt pending further proof from Verizon that I was at fault for the charges, additionally 3) I demand that when you find my dispute valid that you remove the collections account from ALL 3 of the credit bureaus IMMEDIATELY.

With regards to the dispute: 1) In 2001 the telephone line in question was requested to be superceded by my roommate as I was moving out. I contacted Verizon requesting the supercedure of the line - but I did not have my roommate's SS# to provide them with, so THEY ORDERED A 5 DAY GRACE PERIOD BEFORE THE LINE WAS TO BE SHUT OFF. (They have this information in their computer records if you request them). The aforementioned roommate did not call to supercede the line, HOWEVER VERIZON FAILED TO SHUT OFF THE LINE AFTER THE 5 DAY PERIOD. The ensuing months continued with over \$100 in long distance and local telephone charges which were NONE of my responsibility since THE LINE WAS NEVER SHUT OFF AS PER VERIZON'S STANDARD SUPERCEDURE LIMITATION of 5 days! I contacted verizon several months later when I ran a credit check and found the collections account. VERIZON ADMITTED THEY WERE AT FAULT FOR NOT SHUTTING OFF THE LINE AFTER 5 DAYS AND CREDITED A SUBSTANTIAL PORTION OF THE FUNDS TO MY ACCOUNT. I maintained that I was not responsible for ANY of the charges since the lack of follow-through was on THEIR part - not mine. I am not legally liable for ANY of the charges since I submitted the request for legal supercedure and in the absence of said supercedure the line was to be terminated - THEREFORE - VERIZON broke their own LEGALLY BINDING TERMS by failing to terminate the phone line. **(Trust me- after 7 years of dealing with their idiocracy, I now plan on taking this to court).**

If you have any questions about my dispute, AND WHEN you find that my dispute is valid and have restored my credit to ALL THREE of the credit bureaus, please notify me at this email address: marydsquires@hotmail.com

I appreciate your patience and expedience in this matter.

Sincerely,
Mary Staley (Maiden Name: Squires)

7/1/2008

EXHIBIT “B”

AMENDED COMPLAINT FOR VIOLATIONS OF THE FAIR
DEBT COLLECTION PRACTICES ACT - 6

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jrobbins@AttorneysForConsumers.com

----- Original Message -----

From: Recovery Team

To: marydsquires@hotmail.com

Sent: Tuesday, January 15, 2008 4:23 PM



Drive
January 15, 2008

P.O. Box 3427
Bloomington, IL 61702-3427

Please remit to Bloomington, IL address

404 Brock

P.O. Box 3427
Bloomington, IL 61702-3427

Afni, Inc. Account #: 12931822-2

Original Creditor: VERIZON
Creditor Account #: 5093322297010130
Social Security: XXX-XX-XXXX

Balance Due: \$60.85

Mary Squires
9912 Nottingham Dr
Mary Staley
Pasco, WA 99301

This letter confirms the original creditor and balance of your account. Thank you for your attention in this matter.

If you have any questions, please contact our office toll free at 888-804-2409 Monday through Friday 7am - 9pm CST. For proper credit on your account, please write this number 12931822-2 on your payment.

This is an attempt to collect a debt. Any information obtained will be used for the purpose. You have the right to inspect your credit. This letter is from a debt collector.

Sincerely,

Afni, Inc.

7/1/2008

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT
FOR PROPER CREDIT PLEASE WRITE 12931822-2 ON YOUR CHECK

Afni, Inc. Account #: 12931822-2

Creditor: VERIZON

Creditor Account #: 5093322297010130

Social Security: XXX-XX-XXXX

Balance Due: \$60.85

Mary Squires
9912 Nottingham Dr
Mary Staley
Pasco, WA 99301

Please make checks payable to:

Afni, Inc.
404 Brock Drive
P.O. Box 3427
Bloomington, IL 61702-3427